

State Board of Equalization

OPERATIONS MEMO

For Public Release

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SUBJECT: Guidelines for the Disclosure of Confidential Information to a Taxpayer Representative without Written Authorization

I. PURPOSE

This memorandum sets forth guidelines for the release of confidential taxpayer information to an authorized representative that does not have a written authorization on file with the Board of Equalization (BOE).

II. GENERAL

[The Information Practices Act \(Civ. Code § 1798 et seq.\)](#), [Government Code section 15619](#), [Revenue and Taxation Code section 7056](#), as well as other business tax statutes, generally prohibit BOE staff from disclosing confidential taxpayer information. In limited circumstances, however, the Information Practices Act and the Public Records Act provide for the disclosure of this confidential information to either the taxpayer to whom it pertains, or to an authorized representative of the taxpayer. An authorized taxpayer representative is an individual or organization that is selected by the taxpayer to represent their interests before the BOE. For further information concerning the release of information to the taxpayer to whom it pertains, staff should review current BOE guidelines and policies.

III. CONDITIONS FOR DISCLOSURE OF INFORMATION

Generally, a written authorization such as a valid power of attorney is required to provide information about a taxpayer's account or to discuss a taxpayer's account with an authorized taxpayer representative. Limited exceptions to this general rule are permitted as outlined within this Operations Memo.

In all cases of providing confidential taxpayer information to an authorized taxpayer representative, the name of the representative and the information provided must be documented in the Integrated Revenue Information System (IRIS) and, if applicable, the Automated Compliance Management System (ACMS). Only information that would otherwise be disclosed to the taxpayer can be disclosed to an authorized taxpayer representative.

A. Verbal Authorization by the Taxpayer

Verbal authorization by the taxpayer to discuss his or her case with an authorized representative may be accepted by BOE staff over the telephone or in person. In either situation, proper identification must be furnished by the taxpayer to the BOE.

Authorization by telephone: Staff must first verify the identity of the taxpayer by use of a driver's license or social security number through IRIS and/or ACMS before accepting the verbal authorization.

Authorization in person: If the taxpayer is present at a BOE office at the time authorization is given, staff is to ask the taxpayer to present his or her driver's license, Department of Motor Vehicles identification card, or any other document which establishes his or her identity.

At the time the taxpayer provides verbal authorization to discuss his or her case with an authorized representative, staff must obtain clarification from the taxpayer about the specific subject matters that may be discussed with the authorized representative. For example, authorization may be limited to a collection notice, a notice of levy, audit, or regarding payments, etc. Staff should also inform the taxpayer that the verbal authorization will be limited to 30 calendar days, unless the taxpayer requests a shorter period of time. Staff should advise the taxpayer that a written authorization is necessary if the taxpayer seeks to provide an authorization for longer than 30 calendar days.

At the time verbal authorization is provided, the name, address, and telephone number of the authorized representative, the duration of the authorization, and the subject matter of the authorization must be documented in IRIS and, if applicable, ACMS. Disclosure of confidential taxpayer information to the authorized representative is limited to the established authorization period, i.e. 30 calendar days or less, and to the subject matter(s) authorized by the taxpayer. For example, a taxpayer listed on the seller's permit as a sole proprietor contacts a BOE staff member by telephone regarding a notice of levy that captured funds in his spouse's separate bank account and authorizes staff to discuss the circumstances relating to the levy with his spouse. In this situation, staff may explain to the taxpayer's spouse the reason for the levy and general information regarding levies and community property laws but should not provide any other confidential information regarding the taxpayer's account such as the accounts receivable balance, account history, lien information, delinquencies, etc. without specific authorization by the taxpayer.

Before providing confidential taxpayer information to an authorized representative over the telephone, staff should verify the identity of the caller by requesting the name, address, and telephone number and matching it with the information provided by the taxpayer and noted in IRIS and, if applicable, ACMS. When the authorized taxpayer representative appears in person at a BOE office, their identity must be verified by examining their driver's license, Department of Motor Vehicles identification card, or other such identification document and compared to the information noted in IRIS and, if applicable, ACMS.

B. Authorization by Use of Agency Forms, Documents, or Correspondence

Pursuant to Civil Code section 1798.24, subdivision (c) of the Information Practices Act, confidential taxpayer information may also be provided to a person representing

the taxpayer if it can be proven with reasonable certainty through the representative's possession of agency forms, documents, or correspondence that this person is the authorized representative of the taxpayer. Agency forms, documents, or correspondence may include, but are not limited to notices of determination, collection or delinquency notices, taxpayer's copy of a notice of levy, or other forms or correspondence addressed to the taxpayer.

However, notwithstanding the provision noted above, before releasing confidential taxpayer information, staff should make every attempt to verify that the person in possession of the forms, documents or correspondence is the taxpayer's authorized representative. This verification can be done through a review of BOE records or by telephoning the taxpayer. If staff is unable to contact the taxpayer and is unsure whether a person is in fact an authorized representative of the taxpayer, including the spouse of a taxpayer, staff should request that the person provide written authorization by the taxpayer. If there is any doubt, information should not be provided to the person purporting to be the authorized representative. For example, a person comes into a BOE office claiming to represent the taxpayer and presents a statement of account issued by the BOE in the taxpayer's name. The person states that certain payments made by the taxpayer were not credited to the taxpayer's account and requests a record of the payments made during the last three months on the taxpayer's account. However, there is no record in IRIS or ACMS to indicate that the person is an authorized representative of the taxpayer. In this situation, a telephone call must be made to the taxpayer to verify that the person is the authorized representative of the taxpayer. If the taxpayer states that the person is not an authorized representative, or if the taxpayer cannot be contacted, the information should not be provided to the person. On the other hand, if attempts by BOE staff to contact the taxpayer by telephone were unsuccessful, but the person, in addition to presenting the BOE issued statement of account, also presents copies of recent bank statements and cancelled checks issued and signed by the taxpayer and/or copies of recently filed tax returns, the requested information may be provided, as the person has knowledge of the account and the documentation is sufficient to indicate that the person is the authorized representative of the taxpayer.

Staff should screen for situations that may involve speculative inquiries by persons who may be aware of the general subject matter of the taxpayer's issue(s), their business name and/or account number, but who may not have been asked by the taxpayer to represent them. An example of a speculative inquiry is a caller who knows the taxpayer's account number, but asks to verify the taxpayer's address or their reported gross sales for the previous quarter. Assuming that there is no record that the taxpayer is being represented by the caller, the reported gross sales information cannot be provided, and if the account is coded S (Sole Proprietorship), M (Husband and Wife Co-ownership), or N (Registered Domestic Partnership), the address information also cannot be provided to that person.

Confidential taxpayer information should not be provided in response to questions that are unrelated to the actual forms, correspondence or documentation in the

possession of the person, without written or verbal authorization of the taxpayer. For example, information relating to amounts reported on tax returns or matters related to an audit cannot be provided to a person claiming to be an authorized representative based on the person's possession of a delinquency notice or notice to appear addressed to a taxpayer. All requests should be carefully examined and/or analyzed before inferring with reasonable certainty that the person is the authorized representative of the taxpayer.

C. Information Requiring Written Authorization


Requests by taxpayer representatives to examine or receive copies of taxpayer account information, correspondence, or other documents require written authorization by the taxpayer, except under the following circumstances:

1. A written request for documents by a CPA or attorney which clearly states that the CPA or attorney is the authorized representative of the taxpayer. Before releasing the information, however, staff should check IRIS or ACMS to ensure that the representative was not terminated by the taxpayer.
2. In accordance with Section 0101.65 of the Audit Manual, attorneys and accountants may examine and/or receive copies of information related to an audit without having written authorization if the person is known by the BOE to represent the taxpayer during the audit. Before releasing the information, however, staff should check IRIS or ACMS to ensure that the representative was not terminated by the taxpayer.

Without written authorization from the taxpayer, a person purporting to represent the taxpayer should not be permitted to close a taxpayer's account or change a taxpayer's address or ownership information. Only under limited circumstances may federal tax information be provided to a taxpayer representative with a power of attorney, but you should first consult with the Disclosure Office to determine if the necessary circumstances are present before any federal tax information is released.

IV. OBSOLESCENCE

This Operations Memo will become obsolete when the information contained herein is incorporated into the appropriate manuals, including the Audit Manual and the Compliance Policy and Procedures Manual.



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